

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

CFLAY.00197

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on July 9, 2007

Signature

Typed or printed name Amanda Morgan

Application Number

10/683,967

Filed

October 10, 2003

First Named Inventor

Sheri Lynn Baker

Art Unit

1761

Examiner

CORBIN, Arthur L.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record
Registration number 54,625☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34



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July 9, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☒ *Total of 2 forms are submitted.

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REMARKS

Claims 1-3, 5, 17-22, 24, 26, and 44 are pending. The remarks below are focused on the independent claims.

Applicants refer panel to page 8 of the Response to Office Action mailed April 9, 2007, for background on the present invention.

Applicants submit that the rejection is improper because the claimed element in both independent claims requires a mixture that “would enable the resulting mixture to exhibit a dimethyl-ethyl-pyrozine concentration of about 0.05 ppm; a colorimeter value of 49” is not taught or suggested in any of the art cited.

Examiner’s rejection of this limitation consists of allegations as explained in paragraph 11 of the Office Action mailed April 9, 2007.

Further, the Examiner failed to reconsider evidence discussed in the affidavit of Professor Emeritus Dr. Russell Carl Hoseney, submitted with the filing of April 5, 2005, which indicated Applicant’s invention would have a different flavor note than that found in commercial corn chips that are cited by Examiner’s references.

Finally, Applicants refer the panel to the underlined portions of the Response to the Office Action dated April 9, 2007, which explain that the claimed invention is directed towards an additive having a concentrated toasted flavor.

Consequently, because the Examiner has failed to make a prima facie case of obviousness because all claimed limitations were not found in the prior art, Applicants respectfully request the rejection be overturned.